



**PIPER MARBURY  
RUDNICK & WOLFE LLP**  
1200 NINETEENTH STREET, NW  
WASHINGTON, DC 20036-2412  
TELEPHONE: 202-861-3900  
FACSIMILE: 202-223-2085

**RECEIVED**

AUG 08 2001

TECH CENTER 1600/2900

DOCKET NO.: 9491-013-27

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

Re: Serial No.: 09/138,091  
Applicant(s): CAMELLIA W. ADAMS, ET AL.  
Filing Date: AUGUST 21, 1998  
For: AGONIST ANTIBODIES  
Group Art Unit: 1647  
Examiner: SPECTOR, L.

SIR:

Attached hereto for filing are the following papers:

**RESPONSE TO ELECTION OF SPECIES**

Our check in the amount of \$ -0- is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary extension of time to make the filing of the attached documents timely, please charge or credit the difference to Deposit Account No. 50-1442. Further, if these papers are not considered timely filed, then a request is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

PIPER MARBURY RUDNICK & WOLFE LLP

08-06-01  
Date

Amy L. Miller  
Steven B. Kelber  
Attorney of Record  
Registration No.: 30,073

Amy L. Miller  
Registration No.: 43,804

Docket No. 9491-013-27

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE APPLICATION OF: CAMELLIA W. ADAMS, ET AL. GAU: 1647  
SERIAL NO: 09/138,091 EXAMINER: SPECTOR, L.  
FILING DATE: AUGUST 21, 1998  
FOR: AGONIST ANTIBODIES

#21  
AUG  
8/9/01

**RECEIVED**

AUG 08 2001

TECH CENTER 1600,2900

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

Responsive to the Election of Species dated July 13, 2001, Applicants elect, albeit with traverse, species 12D5 for further prosecution at this time.

**REMARKS**

The Examiner has required an election of a single disclosed species, as well as an identification of the claims readable thereon for prosecution on the merits. Applicants elect, albeit with traverse, as a species, nucleic acids encoding antibody Ab5. Applicants respectfully submit that Claims 46-57 are readable thereon. In particular, Claim 50 recites Ab5 itself, which includes a set of specific CDRs, and Claim 49 recites 12D5, which includes the CDRs of Ab5.

Applicants traverse on the basis that examination of all of the claims would not pose an undue burden on the Examiner. Section 803 of The Manual of Patent Examining Procedure states that “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” The Examiner notes “...search of more than a single set of

nucleic acid sequences is deemed to present an undue burden on the resources of the US Patent and Trademark Office". The claims in this application present a single set of nucleic acid sequences identified by SEQ ID NOS for examination. Therefore, Applicants submit that it would not pose an undue burden on the Examiner to examine all of the claims pending in this application.

In view of the above, the election of species is believed to be improper and Applicants respectfully request that the election of species requirement be reconsidered and withdrawn such that Claims 46-57 are examined in this application.

Applicants submit that the application is now in condition for examination on the merits. Early notification of such action is earnestly solicited.

Respectfully submitted,

PIPER RUDNICK MARBURY & WOLFE, LLP

Date: 08-06-01

  
Steven B. Kelber  
Registration No: 30,073  
Attorney of Record

Amy L. Miller  
Registration No: 43,804

1200 Nineteenth Street, N.W.  
Washington, D.C. 20036-2412  
Telephone No.: (202) 861-3900  
Facsimile No.: (202) 223-2085